

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MAGOFFIN GAS COMPANY'S FAILURE	)	
TO COMPLY WITH COMMISSION	)	CASE NO. 9839
REGULATIONS	)	

O R D E R

On December 15, 1986, a comprehensive safety inspection was conducted on Magoffin Gas Company ("Magoffin") by the Commission's Gas Pipeline Safety Branch. Numerous noncompliances to Commission regulations were cited, including 807 KAR 5:022 (Gas Safety). Magoffin failed to respond to the inspection report, and on January 28, 1987, an Order was entered which established this show cause proceeding.

On February 2, 1987, Magoffin requested an informal conference with Commission Staff ("Staff"); and on March 11, 1987, a conference was held to discuss what corrective actions would be taken by Magoffin. During the conference Donald Cohen, owner and operator, asserted that many of the noncompliances relating to system piping and services had been corrected, while the noncompliances relating to record keeping would be corrected by July 1, 1987. However, an April 22, 1987 follow-up inspection determined that while some noncompliances cited in December 1986 had been corrected, certain regulatory requirements relating to corrosion control were still deficient.

Magoffin filed its response to the April 22, 1987 inspection report on June 12, 1987, stating that correction of record keeping noncompliances was still in progress and that no funds existed to initiate a corrosion control program without a rate increase. Magoffin also stated that an application for an adjustment in rates would be submitted soon, in addition to an alternative cost study plan for painting the exposed pipe and protecting or replacing the underground pipe by September 1, 1987.

The Commission noted that a show cause proceeding, Case No. 8991, Public Service Commission vs. Magoffin Gas Company, had been initiated against Magoffin on March 14, 1984 for failure to comply with Commission regulations, including the lack of certain plans and procedures and no corrosion control program. The case was dismissed only after Magoffin had made progress on some non-compliances and agreed to correct the remaining noncompliances on a scheduled basis. Many of the noncompliances cited in 1984, particularly the absence of certain plans and procedures and the lack of a corrosion control program, were once again cited in the inspections conducted on December 15, 1986 and April 22, 1987.

On October 1, 1987, an Order was entered requiring Magoffin to show cause why it should not be fined for violations to 807 KAR 5:022 (Gas Safety) and to demonstrate what corrective actions will be taken to comply with Commission regulations. This action was necessary based upon the Commission's conclusion that Magoffin had failed to maintain compliance with Commission regulations during the period March 1984 through April 1987; had not followed any schedule of repair as agreed to in 1984; and was attempting to

delay indefinitely the correction of certain noncompliances cited in April 1987, including no corrosion control and the absence of various plans and procedures relating to operations and maintenance.

Staff conducted a follow-up inspection on December 2, 1987 to evaluate the progress made to correct the noncompliances cited during the April 1987 inspection. Based upon the results of the inspection and subsequent information filed by Magoffin on February 1, 1988, Staff concluded that Magoffin had made progress towards correction of the noncompliances cited earlier, noting that verification of compliance would be determined during the next comprehensive safety inspection. However, Staff advised Magoffin that its response to the corrosion control noncompliance was still unresolved.

The issue of corrosion control pertains to approximately 4,000 feet of 4-inch, buried, bare steel pipe which requires cathodic protection in accordance with 807 KAR 5:022, Section 10(3). Initially, Magoffin had stated that it had no funds to implement a corrosion control program without a rate increase. Later, Staff was advised by Magoffin that it would develop an estimate for replacing this buried steel pipe with plastic pipe. Finally, on March 25, 1988, Magoffin filed information stating that 10 anodes had been ordered, thereby apparently deciding to implement a cathodic protection program for corrosion control in lieu of replacing the steel pipe with plastic pipe.

However, based upon a June 15, 1988 inspection of Magoffin, Staff determined that Magoffin had failed to conduct a corrosion

survey. Without the results of such a survey by a qualified corrosion technician, it is difficult to determine the most effective and economical type of cathodic protection program which should be implemented. Once the survey was completed, Magoffin would be able to determine more accurately how many anodes were required and where each should be located.

On October 5, 1988, Staff was advised that a corrosion survey with certain recommendations had been completed on Magoffin's 4-inch pipeline. On October 7, 1988, Magoffin stated it was prepared to follow the recommendations of the survey, except that installation of 10 of the 20 anodes recommended would be completed by October 30, 1990 or sooner. Staff recommended to Magoffin that the remaining 10 anodes be installed no later than October 30, 1989. On November 21, 1988, Magoffin filed information stating that 10 anodes had been installed and that the remaining 10 anodes would be installed by October 30, 1989 if finances would permit.

Based upon the various inspections that have occurred and the correspondence submitted by Magoffin, the Commission is of the opinion that Magoffin has corrected the deficiencies cited except for corrosion control. Given the financial condition of Magoffin and the fact that installation of the first 10 anodes has been made at the highest priority sites, Magoffin should be allowed to finish installation of the remaining 10 anodes no later than October 30, 1989. However, Magoffin should determine prior to that deadline whether its lack of finances will prevent it from installing the anodes by that date. If finances appear to be a problem, Magoffin should take whatever steps appropriate to remedy

the shortfall to assure that the deadline will be met. Since this proceeding has been before the Commission for almost 24 months and Magoffin has requested and been granted numerous extensions during this period of time, the Commission is of the opinion that the October 30, 1989 date should remain firm.

The Commission is of the opinion that Magoffin should not be assessed a fine at this time due to its financial condition and the corrective actions it has taken to comply with Commission regulations. However, if Magoffin fails to meet the October 30, 1989 deadline, the Commission will reopen this proceeding to reevaluate the appropriateness of a fine.

#### FINDINGS AND ORDERS

The Commission, after consideration of the record and being advised, is of the opinion and finds that:

1. Magoffin has been in noncompliance to various Commission regulations, including numerous noncompliances to 807 KAR 5:022, Gas Safety.
2. Except for a fully implemented corrosion control program, Magoffin appears to have corrected all of the noncompliances cited in the numerous safety inspections made during the period December 1983-June 1988.
3. Magoffin has partially implemented a corrosion control program based upon the recommendations of a corrosion survey performed by a qualified corrosion technician. While the corrosion control program recommended in the survey requires the installation of 20 anodes, Magoffin has installed only 10 anodes

and proposes to install the remaining 10 anodes no later than October 30, 1989 if finances permit.

4. Given the financial condition of Magoffin and since the 10 anodes that have been installed were placed at the highest priority sites, Magoffin's proposal to delay installation of the remaining 10 anodes until October 30, 1989 should be allowed. However, this deadline should be considered firm. Magoffin should notify the Commission within 15 days after installation has been completed.

5. Magoffin should determine during 1989 whether the lack of finances will prevent the deadline from being met. If finances are a problem, Magoffin should take the appropriate steps to remedy the shortfall to assure that the October 30, 1989 deadline will be met.

6. Due to its financial condition and the corrective actions it has taken to comply with Commission regulations, Magoffin should not be assessed a fine at this time. However, if the remaining 10 anodes have not been installed by October 30, 1989, the Commission should reopen this case to reevaluate the appropriateness of assessing Magoffin a fine pursuant to KRS 278.990.

IT IS THEREFORE ORDERED that:

1. Magoffin shall comply with Findings 4 and 5 herein the same as if each of these findings was also ordered.

2. Magoffin shall not be assessed a fine pursuant to KRS 278.990. However, if Magoffin fails to install the remaining 10

anodes by October 30, 1989, this proceeding shall be reopened to reevaluate the appropriateness of a fine.

Done at Frankfort, Kentucky, this 8th day of December, 1988.

**PUBLIC SERVICE COMMISSION**

Chairman

*Robert M. Davis*  
Vice Chairman

*Spencer M. Williams*  
Commissioner

**ATTEST:**

Executive Director